

Statement of Mike O'Neil

I would like to begin by giving you some personal background so that you will have some perspective on how it is that I am appearing here today. My educational and working career has always been in the financial arena. I spent twenty plus years in both commercial banking and working for companies where my primary focus has always been on financial reporting and analysis. I have lived in California since 1983, but consider myself to have New England roots. I am married to a doctor, and have two children. As a rule, my career and life have been based in logic and fact. On the surface, this appears to make me a poor candidate to discuss advertising practices of any company, however in my capacity as the Chief Financial Officer for the Glen Braswell companies, I attended and had input in most meetings of senior staff. Included in these were the weekly advertising discussions of content, scheduling and production along with senior management meetings to discuss product development and company direction. A description of the associated companies of Glenn Braswell would list some 13 companies that are primarily involved in the sales and distribution of what have become known as neutraceuticals. Combined, these companies have annual revenues of approximately \$200 million. The targeted age market for these products is 45- 60 year olds. As the CFO from August of 1998 to January of 1999, I was effectively the third in command at the companies, behind the COO and Glenn Braswell. With the knowledge gained from that position, I have been asked to come before you to discuss the focus and intent of the company's advertising practices and why they should demand any attention from this committee.

If the name Glenn Braswell sounds somewhat familiar to you, it should. Mr. Braswell was the subject of a lot of attention back in January and February of this year as the result of a last minute Presidential pardon which was arranged through the former first lady's brother in what the press referred to as a pardon for money scandal. At the time, Glenn Braswell was reported in the press to be "a convicted felon, who was under investigation by the Internal Revenue Service for a 'Massive off shore tax evasion scheme". Because of that pardon, he no longer has the felony conviction on his record however I can tell you that the IRS investigation is ongoing. As the former CFO, I am involved in that investigation. As such, I have been asked and request from you that we do not place that ongoing investigation in harm's way by discussing it at all in this venue.

The Braswell companies operate as Direct Mail Marketing companies. That is, they sell directly to the consumer without going through retail outlets. This is accomplished by sending marketing information to consumers through the mail. Consumer names and addresses are bought and sold by the millions via brokers who categorize names according to whatever demographic requirements are needed. Gero Vita, Liferforce, TheraCeuticals International and other Braswell companies rent these lists and mail 4 to 16 page solicitations to the people on the list touting the benefits of the nutritional supplements. Again the target market is 40-60 year olds who have good credit and have been willing to buy through the mail. These practices, in one form or another, are virtually identical to all of the Direct mail businesses in the country.

What makes the Braswell companies unique to a handful of Marketers, is the predatory nature of the advertising message. The primary vehicle for the sale of products is a 50 page advertisement that is published monthly as the "Journal of Longevity". This magazine claims to be "a journal of medical research reviews in the preventive medicine fields". The fact is that it is neither a journal nor does it present any reviews of any preventive medicine. Every word in the magazine is composed by Braswell staff and furthermore every word is designed to do one thing sell Braswell product. The magazine is presented in such a manner so as to suggest that it is a legitimate medical journal with articles written by various medical professionals. In the articles they describe a variety of medical situations that are painful, debilitating or life threatening. These articles run three to four pages with medical detail and facts. In these articles they describe various non-traditional herbal supplements that can solve these

medical situations and restore health to whatever you are bothered by. Then, as luck would have it, there is an ad in the journal for a nutritional supplement sold by a seemingly unrelated company that contains the ingredients just described in the previous article and an 800 number where you can order the product. It is a nice clean process except that nowhere in the journal does it tell anyone that it is an advertisement. Further, the articles are not written by medical professionals but rather by Braswell staff. Finally, the articles and ads contain outright false statements. The articles and ads routinely toss phrases such as "thousands of doctors have praised whatever product" and "millions of men use whatever product" which are blatantly false. One product claims to improve memory, sex drive and reduces a chance of heart attacks by 83%. The articles routinely describe medical problems as life threatening, potentially deadly, causing severe illness or death. They are designed to scare and threaten the reader into purchasing the "antidote" or at the very least trying the product for \$29.95. The products sold by the Braswell companies are rotated through the Journal with new product names and articles concocted as necessary. That is, if a product does not do well, it is renamed and given life in treating some other malady. New products were introduced at marketing meetings with Braswell retaining the right to override any conclusions from meetings. On more than one occasion, products were deemed to be ineffective and ads too outspoken and provocative for publication in marketing meetings, only to be overridden by Glenn Braswell many times to the disbelief of staff. What makes this inappropriate is the nature of the articles and advertisements. What makes this activity inexcusable is that it takes advantage of people with legitimate medical needs who are susceptible to a message of miracle remedies and cures. What needs to be considered is not what the person, who is in pain, is thinking when they read the add, because they want to believe, almost need to believe, but rather what does the person writing the ad know to be true. To the extent that there is a difference, there is fraud.

I cannot say that all the products do not work or that people who take them don't feel better. I am neither a doctor, nor a research scientist and have no basis to have an opinion on the product. What I am saying is that the process that is used to recruit customers is flawed and laden with lies and deception and that the products could not possibly deliver what is promised in the advertising. I am not the first person to come to this conclusion. A Washington Post story on the companies quotes the editors of Consumer Reports as saying in 1998 "We see a lot of misleading marketing but what spews out of Gero Vita Industries rivals the worst." Consumer Reports, continued the Post, characterized the company's literature as "masquerading as science. The booklets cite actual studies but twist the findings to support the company's own unsubstantiated claim." In South Carolina, three sports figures, Richard Petty, Stan Musial and Len Dawson, filed suit in federal court against Braswell and Gero Vita for misusing their names in advertisements for Prostata, a claimed prostate cancer-preventing supplement. The lawsuits, filed in 1997 by Charleston lawyers E. Vernon Glenn and Gedney M. Howe III, involve a series of advertisements that identify the three sports figures among a group of men who "waited too long and are suffering" from prostate problems. Finally, if you look at the company itself, there is an underlying commitment to deception. All advertisements by the company contain a return address in Canada thus suggesting that the company is either located or headquartered in Canada. I recently placed a call to customer service at the company and was told that the "company chiefs were in Canada but that she was in Maryland". The Braswell companies have no employees of an executive or any other kind in Canada but rather have what amounts to a "Mail Boxes, Etc." address in Toronto. The reason, simple, the US Postal Service cannot easily interrupt mail going outside the country. If you look at the "Journal of Longevity", the return address is in Reno, NV. There are no employees in Reno either. Those are two of a list of attempts to confuse both the general public and government agencies. When I was there, and I don't believe things have changed, the Braswell companies had employees in Marina del Rey, CA and at a shipping warehouse in Las Vegas, NV. The reasons that the companies wish to have the appearance of foreign ownership and ghost locations is to create a delay for any individual or agency seeking to locate the company. To the best of my knowledge, all of these ploys are legal if you pay the appropriate taxes and file the appropriate documentation, however the elaborate tactical maneuvering of the company suggests that it is aware of its own deception and has taken preventative measures to delay and confuse

what it must have known would be eventual government investigations.

One of the reasons I was brought to the company was to help clean up the company for a potential sale. Financial reporting and operational procedures were improving but still compartmentalized and fragmented. During my time with the company we had discussions with a number of buyers and every one of them had concerns with the Braswell advertising practices. While the potential buyers did not like his style, they wanted to know the financial effect of reducing the fabrications and advertising practices clearly realizing that the two were interdependent. When I came to work for the company, Braswell had been described to me as an advertising genius with his ability to build a company to \$200 million in annual sales. As I came to know the insides of the company, a different story became very clear. He was not an "advertising genius", but rather he was simply willing to advertise outside of the conventional industry boundaries. To me, this isn't a genius... it is a liar. In my position as the Chief Financial Officer, I was able to obtain answers to questions on advertising and worked with the Chief Operating Officer, Ted Ponich, to determine the how's and why's of the company's operating principles and practices. When he was hired in 1996 and I was hired in August of 1998, we were advised by senior outside consultants that the company wanted to improve its image and convert from a clandestine operation to a traditional company. By November of 1998 it was clear that there was no desire to improve the company but rather the desire to "appear" to be making changes at the company by hiring persons such as Ted, me and other department heads with traditional business backgrounds while Mr. Braswell and seniors advisors continued to manipulate the advertising and financial components of the company. Then the goal was to sell it to an unsuspecting investor or competitor. Just after Thanksgiving, Mr. Ponich and I met where he informed me that he was convinced that Braswell recognized that he couldn't change the company without senior staff and he intended to use this leverage to approach him with his concerns as to the direction of the company. Things did not go the way Ted had planned and the meeting ended with Mr. Braswell telling Mr. Ponich that he wanted the company to go back to the "old way of doing business" and Mr. Ponich telling Mr. Braswell that "either this company gets cleaned up or I will personally turn you into the government authorities". In January of 1999, four department heads including Mr. Ponich and I were terminated for the stated reason "the company was going in a different direction". True to his word, shortly after we were terminated, Mr. Ponich met with me to discuss going to the appropriate governmental agencies. While a part of me just wanted to get on with my life, two things occurred to me. I would not let my friend take this process on by himself and more importantly, people should not be allowed to get away with what Gero Vita, GB Data and other Braswell companies were planning. We had been insiders, knew the strategy and practices of the company and its professional advisers and could best insure that the efforts of the various agencies were beneficial.

We in fact contacted the IRS, Federal Trade Commission, State Franchise tax Boards, Post Office, Food and Drug Administration and various other government agencies including the offices of the two Senators from California. We expected retaliation from Braswell and were not disappointed. I was sued for a number of blatantly false issues, as was Mr. Ponich. The suit against me was ultimately withdrawn. The Ponich suit has been held pending the outcome of a continuing IRS investigation against the company however I am equally certain his will be settled in his favor at the appropriate time. These lawsuits were a not so thinly veiled message of power and money by the Braswell companies to those who would dare to help us. The suits were no surprise to us as it was consistent with the Braswell strategy of overwhelming any opponent with expensive and extensive litigation brought by very reputable law firms. Besides the expense of defense, the strategy is to ruin the reputation and credibility of individuals and to insure that it is near impossible for them to be employable. As you may imagine, working in the financial field and having been sued by your last employer for financial transgressions is not helpful to a career.

Mr. Ponich was tragically killed in an automobile accident last November. I will tell you that I gave up his cause of trying to expose the Braswell companies and that the companies continue to publish the

Journal of Longevity, mail out weekly advertisements to millions of people and continue to thrive.

After the Presidential pardon debacle, people began to notice the Braswell companies. I read a number of articles on the Braswell companies by leading newspaper and periodicals which describe Braswell as scam artist, convicted felon, supplement fraudster, huckster, swindler, con artist and as man convicted of mail fraud and perjury. Even with all of this notoriety, the companies still continue to be allowed to go on.

The fundamental reason that I am here today is to discuss why a company, headed by a man as described above can remain in business and continue to prey on the elderly and infirmed. We all know that there are federal and state agencies designed to protect the public from these activities and there are a suitcase full of laws already in place to make sure that what I have just described does not occur. In my opinion, we do not need any more laws or agencies to come to the party. What we do need is to have the laws, already in place, enforced and the agencies charged with monitoring these types of companies, do their job. The challenge is that Mr. Braswell and his senior advisors are not going to make it easy for anyone or any agency to impact the ongoing business.

I have had discussions with Glenn Braswell. The thing he fears most of all is going back to jail. He has a substantial amount of money and will use it. The first thing he will do is out lawyer whomever goes against him, even if that is the government. His current legal team is a who's who of the law profession. They have a client list which starts and the former President and Vice President and moves to major companies and influential people. His financial and technical advisors are also the best that money can buy. They know the law and they know what is massageable within the law.

The second thing you face when dealing with the companies is both simple and yet difficult to overcome. They play very fast and loose with the truth. The company has elevated deception to an art form. If you already know that the advertising and return policies are fraudulent, why should you believe that they are all of a sudden honest when it comes to dealing with the investigators and for that matter, anyone who poses a perceived threat to the ongoing operation. The US Postal Service, which was responsible for shutting down the 1983 Braswell operation by stopping the mail, cannot interrupt mail destined for Canada so go get a Canadian address. The FDA, after reviewing some of the Gero Vita and other Braswell products, issued an import alert for product coming in from Canada. The agency believes that it did its job however; the facts are that there is no product coming in from Canada because the company has its headquarters in Marina del Rey, California. The products are encapsulated at various labs on the west coast and the product is shipped from a company warehouse in Las Vegas. The company maintains its primary banking relationship at the Royal Bank of Canada. All funds are wired to the bank on a daily basis. While the money in Canada is not beyond the reach of US officials, it will delay by two to three days to any seizing process and allow the company to move the funds offshore if necessary.

Over the past two years, almost all of the agencies that were contacted have come back to say that their initial investigation revealed the Braswell companies to be foreign based and beyond jurisdiction, even after we advised them of who Mr. Ponich and I were and what we knew, the best we received was a promise from a few agencies to "look into the matter". And for the record, over a half a dozen calls to each of our state senators offices yielded zero response.

The Braswell strategy has been effective and to stop the predatory nature of the advertising and fraud you have to defeat the strategy. In a nutshell, the strategy is:

1. Remain anonymous: no one knows where you are or who you are. Compartmentalize the

company so even employees don't know exactly what goes on. Contract out as much of the company's activities as possible. Stay off government radar screens and out of the limelight. Braswell believes that government agencies love to go after the big fish. A legitimate concern of Braswell was that his company was getting to big and would begin to attract attention.

2. Hire the best attorneys and accountants that are available and feed them a tale of misery accented with deception. These people know the government and the attending weaknesses within any agency. The reputations and credentials of the professionals representing Braswell are known and respected by the agencies and various government attorneys. The intimidation factor works.
3. Delay the process, provide no information or overwhelm an agency with useless information. Ask for extensions, plead ignorance or mistakes in intent. Most agencies are forgiving. Use the bureaucratic nature of government investigating agencies against them i.e. most bureaucrats do not want to draw attention to themselves by investing government resources in a losing effort. These people working for governmental agencies don't want attention any more than Braswell does but for different reasons. If they know that going against Braswell will be long and expensive and may yield nothing, they are inclined to look for a reason to avoid a confrontation.
4. Strategic settlement: that is if there is a chance of loss that is unavoidable, settle the issue and seal the results. Maintain the anonymity that is the basis of the company and provides for freedom of operation.

The company, policies and procedures that I have just described exists. It is real and operates in California but how do you know that? This committee has the opportunity to view what I have just told you as the truth or the ramblings of a disgruntled former employee. I would suggest to you that there are consequences to either avenue. Ignore me and you take a chance that I was telling the truth and there is a company that preys on the elderly and people who are in need of hope. These people need a collective voice and this committee can be that voice. Take me at my word and you will be taking on a man who has money, and therefore can buy power and influence, both of which are the non-negotiable currency of most governmental endeavors. Let us not forget that he just received a presidential pardon.

Ultimately, if we are successful in changing or eliminating the Braswell companies, another will step up and fill the void. As long as there are people in pain and getting older brings pain and illness, there will be people who believe that there is an herb in India or a plant in China that holds the secret to a pain free existence and that our government doesn't want them to know. The fact is that most Chinese and Indians don't live near as long as most Americans, but packaged and presented in the proper format, there are millions of people, perhaps tens of millions, in this country that are ready to ignore this fact and buy into the fraud sponsored by companies such as Gero Vita, Theraceutical and other Braswell type companies and enrich the owners in the process. The job of the government, as I see it, is to make sure that there is a level playing field, citizens have all the information to make an informed decision and the information is founded in fact. Fraud and deceit, wherever it exists, unlevels the field and clouds the facts.